

**§ 47123. Nondiscrimination**

(a) IN GENERAL.—The Secretary of Transportation shall take affirmative action to ensure that an individual is not excluded because of race, creed, color, national origin, or sex from participating in an activity carried out with money received under a grant under this subchapter. The Secretary shall prescribe regulations necessary to carry out this section. The regulations shall be similar to those in effect under title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.). This section is in addition to title VI of the Act.

(b) INDIAN EMPLOYMENT.—

(1) TRIBAL SPONSOR PREFERENCE.—Consistent with section 703(i) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2(i)), nothing in this section shall preclude the preferential employment of Indians living on or near a reservation on a project or contract at—

(A) an airport sponsored by an Indian tribal government; or

(B) an airport located on an Indian reservation.

(2) STATE PREFERENCE.—A State may implement a preference for employment of Indians on a project carried out under this subchapter near an Indian reservation.

(3) IMPLEMENTATION.—The Secretary shall consult with Indian tribal governments and cooperate with the States to implement this subsection.

(4) INDIAN TRIBAL GOVERNMENT DEFINED.—In this section, the term “Indian tribal government” has the same meaning given that term in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122).

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1275; Pub. L. 115-254, div. B, title I, §153, Oct. 5, 2018, 132 Stat. 3216.)

## HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
47123 .....	49 App.:2219.	Sept. 3, 1982, Pub. L. 97-248, §520, 96 Stat. 694.

The words “as the Secretary deems” and “the purposes of” are omitted as surplus. The words “The regulations shall be similar to those in effect under” are substituted for “and may enforce this section, and any rules promulgated under this section, through agency and department provisions and rules which shall be similar to those established and in effect under” for clarity and to eliminate unnecessary words and because “rules” and “regulations” are synonymous. The words “The provisions of . . . and not in lieu of the provisions of” are omitted as surplus. The word “is” is substituted for “shall be considered to be” to eliminate unnecessary words.

## REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in subsec. (a), is Pub. L. 88-352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Act is classified generally to subchapter V (§2000d et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

## AMENDMENTS

2018—Pub. L. 115-254 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

**§ 47124. Agreements for State and local operation of airport facilities**

(a) GOVERNMENT RELIEF FROM LIABILITY.—The Secretary of Transportation shall ensure that an agreement under this subchapter with a qualified entity (as determined by the Secretary), State, or a political subdivision of a State to allow the entity, State, or subdivision to operate an airport facility relieves the United States Government from any liability arising out of, or related to, acts or omissions of employees of the entity, State, or subdivision in operating the airport facility.

(b) AIR TRAFFIC CONTROL CONTRACT PROGRAM.—

(1) CONTRACT TOWER PROGRAM.—

(A) CONTINUATION.—The Secretary shall continue the low activity (Visual Flight Rules) level I air traffic control tower contract program established under subsection (a) of this section for towers existing on December 30, 1987, and extend the program to other towers as practicable.

(B) SPECIAL RULE.—If the Secretary determines that a tower already operating under the Contract Tower Program has a benefit-to-cost ratio of less than 1.0, the airport sponsor or State or local government having jurisdiction over the airport shall not be required to pay the portion of the costs that exceeds the benefit—

(i) for the 1-year period after such determination is made; or

(ii) if an appeal of such determination is requested, for the 1-year period described in subsection (d)(4)(D).<sup>1</sup>

(C) USE OF EXCESS FUNDS.—If the Secretary finds that all or part of an amount made available to carry out the program continued under this paragraph is not required during a fiscal year, the Secretary may use, during such fiscal year, the amount not so required to carry out the Cost-share Program.

(2) GENERAL AUTHORITY.—The Secretary may make a contract with a qualified entity (as determined by the Secretary) or, on a sole source basis, with a State or a political subdivision of a State to allow the entity, State, or subdivision to operate an airport traffic control tower classified as a level I (Visual Flight Rules) tower if the Secretary decides that the entity, State, or subdivision has the capability to comply with the requirements of this paragraph. The contract shall require that the entity, State, or subdivision comply with applicable safety regulations in operating the facility and with applicable competition requirements in making a subcontract to perform work to carry out the contract.

(3) COST-SHARE PROGRAM.—

(A) IN GENERAL.—The Secretary shall establish a program to contract for air traffic control services at nonapproach control towers, as defined by the Secretary, that do not qualify for the Contract Tower Program.

(B) PROGRAM COMPONENTS.—In carrying out the Cost-share Program, the Secretary shall—

<sup>1</sup> So in original.